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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,421	10/02/2003	Lynn A. Russell	9725-078	9990
20575	7590	07/15/2004	EXAMINER	
MARGER JOHNSON & MCCOLLOM PC 1030 SW MORRISON STREET PORTLAND, OR 97205			MILLER, JONATHAN R	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 07/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,421

Applicant(s)

RUSSEL ET AL.

Examiner

Jonathan R. Miller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) 41-48 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1- 3, 5 - 11, 13 - 17, 20- 23, 25 -37 and 40 is/are rejected.
- 7) ☒ Claim(s) 8, 10 - 15, 20, 26-28, 30, 31, 33, 35 and 40 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Response to Amendment

1. Applicant's preliminary amendment dated 10/02/02 is improper because it does not address all the listed claims. Claim 41 – 48 are not addressed in the amendment. Examiner considers these claims withdrawn.

Claim Objections

2. Claims 8, 10 – 15, 20, 26-28, 30, 31, 33, 35 and 40 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The independent claims currently pending are for a module. The "module" as defined by the Applicant is the screening/diverting member that, together with other modules, make up the screening surface. The screening system, as defined by the Applicant is the overall system which comprises modules, posts, and the frame. These three subcombinations together make up the screening system. The pending claims are for the module. Claims 8, 10 – 15, 20, 26-28, 30, 31, 33, 35 and 40 do not further limit the module, but rather limit either the frame or the posts. Applicant is required to cancel these claims if Applicant wants this application to go the module subcombination.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. How can the frame have both a substantially rectangular-shaped perimeter and have an arcuate shaped corner? Furthermore, Examiner cannot not find this limitation shown in the Figures.

5. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 32 recites the limitation "said frame" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1- 3, 5 - 11, 13, 15- 17, 20 - 23, 25-31, 33 –37 and 40 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tabor. Applicant is directed to Figs. 4- 6, which clearly disclose the module, the downwardly extending engagement member, the reinforcing support frame, and the posts. Examiner contends that, with regards to claim 13, the post comprises at least one of a slot or a recess (inwardly sloping portion of 42) for interlockingly engaging with the module (25), and at least one frame slot (40) is disposed within the posts (Fig.

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5) Examiner contends this is a frame slot because the frame is connected to the post via this slot. This reasoning also applies to claims 11 and 20.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan R. Miller whose telephone number is (703) 305-5778. The examiner can normally be reached on M-F: 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DONALD P. WALSH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600